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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

AT ALBUQUERQUE NM

JUN 17 1999

LOUIE ARCHULETA,

Plaintiff,

ROBERT M. MARCH
CLERK

v.

No. CIV-99-0551 M/DJS

JOSEPH TRUJILLO, JAMES MULHERON,
KEVIN SNOW, sued in their individual and official capacity,
RONALD LYTLE, sued in his individual and official capacities,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court sua sponte for consideration of Plaintiff's motion for leave to proceed pursuant to 28 U.S.C. § 1915 (Doc. #2) filed May 14, 1999. Under the 1996 amendments to 28 U.S.C. § 1915, a prisoner may not proceed in forma pauperis in pursuit of certain successive or repetitious filings unless the prisoner is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Plaintiff has filed a number of civil actions in this Court, at least three of which were filed while he was incarcerated and were dismissed as frivolous or for failure to state a claim. The case numbers of these actions are CIV-94-0800 M/LFG, CIV-94-1258 M/LFG, and CIV-96-0837 LH/WWD. See *Duhart v. Carlson*, 469 F.2d 471, 473 (10th Cir. 1972) (court may take judicial notice of its own records), *cert. denied sub nom. Long v. Carlson*, 410 U.S. 958 (1973). This action has thus been preceded by the requisite number of dismissed actions. And although the complaint contains an allegation that Plaintiff is in imminent danger of physical injury, the allegation is utterly conclusory and without factual support. Under the factors specified in § 1915(g), the motion for leave to proceed pursuant to 28 U.S.C. § 1915 will be denied and the filing fee must be paid. *Pigg*

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v. *FBI*, 106 F.3d 1497 (10th Cir. 1997).

IT IS THEREFORE ORDERED that Plaintiff's motion for leave to proceed pursuant to 28 U.S.C. § 1915 (Doc. #2) filed May 14, 1999, is DENIED;

IT IS FURTHER ORDERED that, within 20 days from entry of this order, Plaintiff may submit the required filing fee of \$150.00; the Court will not review the merits of the complaint or issue summons until the filing fee is paid; failure to submit the required filing fee may result in dismissal without prejudice without further notice.


UNITED STATES DISTRICT JUDGE